

**ARTICLE 11**  
**ADMINISTRATION**

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**§ 180-1101. Intent**

- A. This subdivision and land development ordinance shall be considered to set forth the minimum requirements for the protection of the public health, safety, comfort, property or general welfare, pursuant to the authority of the Pennsylvania Municipalities Planning Code, Act of 1968, P.L. 805, No. 247, as reenacted and amended, or such statutes hereinafter in effect, and shall be construed most favorably to the Township as encouraging standards of planning and development exceeding these basic and minimum regulations.

**§ 180-1102. Administration & Enforcement**

- A. The Board of Supervisors shall have the duty and authority for the administration and enforcement of the provisions of this Ordinance. As directed by the Board, officials of the Township having regulatory duties shall have the duty and authority for the controlling enforcement of the provisions of this Ordinance.
- B. Permits required by the Township for the erection or alteration of buildings, the installation of streets, storm water drainage systems, or for other appurtenant improvements to or use of the land, shall not be issued by any Township official responsible for such issuance until it has been ascertained that the site for such building, alteration, improvement, or use is contained in a subdivision or land development plan approved and publicly recorded in accordance with the provisions of this and other applicable Township Codes and Ordinances.

**§ 180-1103. Modification of Requirements**

- A. The provisions of this Ordinance are intended as minimum standards for the protection of the public health, safety and welfare of the residents and inhabitants of Lower Paxton Township. The Board of Supervisors may grant a modification of the requirements of one or more provisions of this Ordinance if the Board concludes that literal enforcement will exact undue hardship because of peculiar or unique conditions pertaining to the land in question, provided that such modifications will not be contrary to the public interest and that the purpose and intent of this Ordinance is observed.
- B. All requests for a modification of requirements shall be in writing to the Board and shall accompany and be part of the application for subdivision or land development. The request shall state in full the grounds and facts of unreasonableness or hardship upon which the request is based; the provision or provisions of the Ordinance involved; and the minimum modification necessary to afford relief. The request for a modification of requirements shall also be referred to the Township Planning Commission for advisory comments.

- C. All such modification requests shall be approved or disapproved by the Board of Supervisors. A written record of the action shall be kept for all modification requests.
- D. A listing of all modifications granted by the Board of Supervisors shall be clearly identified on the preliminary and/or final plan for ease of future reference.

**§ 180-1104. Appeals**

- A. An Applicant, subdivider, landowner or developer aggrieved by any action of the Board of Supervisors regarding refusal to approve a subdivision or land development plan may, within thirty (30) days of such refusal, appeal to the Common Pleas Court of Dauphin County. Any other appeals by aggrieved parties or other landowners shall be subject to the appeal procedures outlined in Article X of the Pennsylvania Municipalities Planning Code, Act of 1968, P.L. 805, No. 247, as reenacted and amended.

**§ 180-1105. Schedule of Fees**

- A. Annually, the Board of Supervisors shall establish, by resolution, a schedule of fees, charges and expenses pertaining to application filing fees, plan review fees, engineering and legal fees, inspection fees and other matters necessary for the administration of this Ordinance. The schedule of fees shall be made available in the Township municipal building during normal business hours.
- B. At the time of filing, all plans shall be accompanied by a check payable to Lower Paxton Township, in the amount specified herein, to cover the required initial application fees to help defray the cost of reviewing the proposed plans and required data. Also at the time of filing, all plans shall be accompanied by a check payable to the Dauphin County Planning Commission, in the amount specified by the County, to cover the costs of the County Planning Commission review and report.
- C. Any additional fees incurred due to review during the review process, shall be promptly billed by Lower Paxton Township to the Applicant and the same shall be paid by the Applicant within thirty (30) days. Until all fees, charges and expenses have been paid in full by the Applicant, the subdivision or land development plan shall not be placed on public record nor shall any permits related to the project be issued.
- D. Review fees shall include the reasonable and necessary charges by the Township's Engineer, Solicitor or other Professional Consultant for review and report to the Township related to the application as duly filed. Such review fees shall be reasonable and in accordance with the ordinary and customary charges by the Township Engineer, Solicitor or Professional Consultant for similar service in

the community, but in no event shall the fees exceed the rate or fees charged by the engineer, solicitor or consultant to the Township when fees are not reimbursed or otherwise imposed on Applicants.

- E. In the event the Applicant disputes the amount of any such review fees, the Applicant shall, within fifteen (15) days of the billing date, notify the Township in writing that such fees are disputed, in which case the Township shall not delay or disapprove a subdivision or land development application due to the Applicant's request over disputed fees. In the event that the Township and the Applicant cannot agree on the amount of review fees which are reasonable and necessary, then the fees shall be recalculated and recertified by another Professional Engineer licensed as such in this Commonwealth and chosen mutually by the Township and the Applicant or developer. The estimate certified by the third engineer shall be presumed fair and reasonable and shall be the final estimate. In the event that a third engineer is so chosen, fees for the services of said engineer shall be paid equally by the Township and the Applicant or developer.
- F. Whenever an application is disapproved by the Township, withdrawn by the Applicant or subject to other similar action, and subsequently resubmitted by the Applicant, the Township shall require the payment of new fees as any resubmission shall be considered as a new submission.

**§ 180-1106. Enforcement & Penalties**

**A. Preventive Remedies**

- 1. In addition to other remedies that the Township may institute, the Township may refuse to issue any permit or grant any approval necessary to further improve or develop any real property in violation of this Ordinance. This authority to deny such a permit or approval shall apply to any of the following Applicants:
  - a. The owner of record at the time of such violation.
  - b. The vendee or lessee of the owner of record at the time of such violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.
  - c. The current owner of record who acquired the property subsequent to the time of violation without regard as to whether such current owner had actual or constructive knowledge of the violation.
  - d. The vendee or lessee of the current owner of the record who acquired the property subsequent to the time of violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.

2. As an additional condition for issuance of a permit or the granting of an approval to any such owner, current owner, vendee or lessee for the development of any such real property, the Township may require compliance with the conditions that would have been applicable to the property at the time the Applicant acquired an interest in such real property.

**B. Enforcement Remedies**

1. Any person, partnership or corporation who or which has violated the provisions of this Ordinance shall, upon being found liable thereof in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than five hundred (\$500.00) dollars plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the Magisterial District Judge. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the Magisterial District Judge determining that there has been a violation further determines that there was a good faith basis for the person, corporation violating this ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth (5<sup>th</sup>) day following the date of the determination of a violation by the Magisterial District Judge and thereafter each day that a violation continues shall constitute a separate violation.
2. The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem judgment pending a final adjudication of the violation and judgment.
3. Nothing contained in this Article shall be construed or interpreted to grant to any person or entity other than the Township the right to commence any action for enforcement pursuant to this Ordinance.
4. Magisterial District Judge shall have initial jurisdiction in proceedings brought under this Ordinance.

**§ 180-1107. Effect of Change on this Ordinance**

Changes in this Ordinance shall affect plans as follows:

- A. From the time an application for approval of a plan, whether preliminary or final, is duly filed as provided in this Ordinance, and while such application is pending approval or disapproval, no change or amendment of this Ordinance, zoning or other governing ordinance or plan shall affect the decision on such application

adversely to the Applicant and the Applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed. The Applicant shall be entitled to final approval in accordance with the terms of the approved preliminary application as hereinafter provided. However, if an application is properly and finally denied, any subsequent application shall be subject to the intervening change in governing regulations.

- B. When an application for approval of a plan, whether preliminary or final, has been approved without conditions or approved by the Applicant's acceptance of conditions, no subsequent change or amendment in this Ordinance, zoning or other governing ordinance or plan shall be applied to affect adversely the right of the Applicant to commence and to complete any aspect of the approved development in accordance with the terms of such approval within five (5) years from such approval.
- C. Where final approval is preceded by preliminary approval, the aforesaid five-year period shall be counted from the date of the preliminary approval. In the case of any doubt as to the terms of a preliminary approval, the terms shall be construed in the light of the provisions of this Ordinance or the governing ordinance or plans as they stood at the time when the application for such approval was duly filed.
- D. Where the landowner has substantially completed the required improvements as depicted upon the final plan within the aforesaid five-year limit, or any extension thereof as may be granted by the Board of Supervisors, no change of any ordinance or plan enacted subsequent to the date of filing of the preliminary plan shall modify or revoke any aspect of the approved final plan pertaining to zoning classification or density, lot, building, street or utility location.
- E. In the case of a preliminary plan calling for the installation of improvements beyond the five-year period, a schedule shall be filed by the landowner with the preliminary plan delineating all proposed sections as well as deadlines within which applications for final plan approval of each section are intended to be filed. Such schedule shall be updated annually by the Applicant on or before the anniversary of the preliminary plan approval, until final plan approval of the final section has been granted and any modification in the aforesaid schedule shall be subject to approval of the Board of Supervisors in its discretion.
- F. Each section in any residential subdivision or land development, except for the last section, shall contain a minimum of twenty-five (25) percent of the total number of dwelling units as depicted on the preliminary plan, unless a lesser percentage is approved by the Board of Supervisors in its discretion. Provided the landowner has not defaulted with regard to or violated any of the conditions of the preliminary plan approval, including compliance with landowner's aforesaid schedule of submission of final plans for the various sections, then the aforesaid protections afforded by substantially completing the improvements depicted upon the final plan within five years shall apply and for any section or sections, beyond

the initial section, in which the required improvements have not been substantially completed within said five-year period the aforesaid protections shall apply for an additional term or terms of three years from the date of final plan approval for each section.

- G. Failure of landowner to adhere to the aforesaid schedule of submission of final plans for the various sections shall subject any such section to any and all changes in this Ordinance, zoning, and other governing ordinance enacted by the Township subsequent to the date of the initial preliminary plan submission.

**§ 180-1108. Validity & Severability**

Should any section, subsection or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any other part thereof.

**§ 180-1109. Effect of Plan Approval on Official Map**

After a plan has been approved and recorded as provided herein, all streets and public grounds on such plan shall be, and become a part of the official map of Lower Paxton Township without public hearing.